

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

Crl.MC.No. 2022 of 2007()

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C.C. 324/06 OF J.F.C.M. COURT, TIRUR

PETITIONER: ACCUSED NO 1

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SREENATH V.K. AGED  
S/O.LATE PV.DIVAKARAN,VAYYAVANAT KIZHAKKEPATTU  
HOUSE,PERASANNUR PO,KUTTIPURAM VIA  
MALAPPURAM.

BY ADV. SRI.SUNIL NAIR PALAKKAT  
SRI.K.N.ABHILASH

RESPONDENTS: STATE

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THE SUB INSPECTOR OF POLICE  
KUTTIPPURAM,MALAPPUAM  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION  
ON 26/06/2007, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:

**R. BASANT, J.**

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Crl.M.C.No. 2022 of 2007  
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Dated this the 26<sup>th</sup> day of June, 2007

**ORDER**

The petitioner faces indictment for offences punishable, inter alia, under Sections 323 and 341 I.P.C. Cognizance has been taken. The petitioner did not receive any summons to appear before the learned Magistrate. Reckoning him as absconding, the learned Magistrate has issued warrant to procure his presence. All offences are bailable. The petitioner had in the crime stage got himself enlarged on bail. He is willing to appear before the learned Magistrate. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when he

surrenders before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

**(R. BASANT)**  
Judge

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